

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

INTERACTIVE FITNESS, INC. ,

Plaintiff,

v.

SOURESH BASU, et al.,

Defendants.

Case No. 2:09-CV-01145-KJD-RJJ

ORDER

Currently listed as a Pending Motion before the Court is Plaintiff's Motion for Preliminary Injunction (#3). Defendant Filed a Response (#11), to which Plaintiff filed a Reply (#13).¹

On August 5, 2009, the Court held a Hearing on the Motion for Preliminary Injunction in which the Temporary Restraining Order that had been issued previously was extended. (See #15.) Status Conferences regarding Plaintiff's Motion for injunctive relief were subsequently held on August 19, 2009, and September 22, 2009, respectively. (See ## 17, 18.) At the Status Hearing of September 22, 2009, the Court ruled that the matter would be stayed pending the parties' participation in arbitration proceedings as defined in the underlying consulting agreement. The Court retained jurisdiction with regard to the request for injunctive relief, and counsel for Plaintiff advised

¹Additionally pending before the Court is Defendants' Motion to Dismiss (#12). Plaintiff filed a Response (#14), to which Defendants filed a Reply (#16). The Court withholds ruling on the Motion to Dismiss at this time however, pending an arbitration ruling on the underlying issues.

1 the Court that Plaintiff would submit a proposed preliminary injunction order outlining the
2 documents or portions of said documents that the parties had agreed should be unsealed. (See
3 Minutes of Proceedings #18.)

4 Having not received a proposed preliminary injunction order from Plaintiff, as had been
5 represented at the previous Status Conference, on May 26, 2010, the Court issued a Minute Order
6 (#19) requiring the parties to file a Status Report on or before June 11, 2010. On July 9, 2010,
7 Plaintiff filed a Joint Status Report (#20). The Status Report stated *inter alia* that the parties had
8 begun arbitration proceedings in December 2009. (See #20 at 2.) The Status Report also stated that
9 arbitration proceedings were scheduled to take place between September 14–17, 2010. The Status
10 Report failed, however, to make any mention of the proposed preliminary injunction order Plaintiff
11 agreed to file with the Court.

12 Accordingly, for the reasons represented at the hearing on the Motion, the Court finds that
13 Plaintiff's Motion for Preliminary Injunction (#3) should be denied. Plaintiff has failed to meet the
14 Ninth Circuit's standard for injunctive relief, because it has not demonstrated a probable likelihood
15 of success on the merits of its claim, that the balance of hardships tips in its favor, the requisite
16 emergent circumstances to merit injunctive relief, or that said relief is in the public interest.
17 Accordingly, **IT IS HEREBY ORDERED** that Plaintiff's Motion for Preliminary Injunction (#3) is
18 **DENIED**.

19 **IT IS FURTHER ORDERED** that the Parties shall file a status report on or before
20 November 15, 2010.

21 DATED this 18th day of October, 2010.

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24 _____
25 Kent J. Dawson
26 United States District Judge